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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,164	01/17/2002	Edward G. van Nimwegen	1002.2.88	3186

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 08/19/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,164

Applicant(s)

NIMWEGEN, EDWARD G. VAN

Examiner

Michael Chambers

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 46-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 46-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 4/15/02 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. No copies of 5902197 or 5983602 were included with the IDS.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 46-58, 59-63, and 64-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite and vague for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "mounting region" is unclear and renders the claim indefinite and vague.

As to claim 46: The term "sized and configured to transmit one or more forces" is unclear and renders the claim indefinite and vague.

As to claims 47, 49, 53, 54, 59,: The term "mounting region" is unclear and renders the claim indefinite and vague.

As to claims 51, 52: The term "sized and configured to selectively connect" is unclear and renders the claim indefinite and vague.

As to claims 55,64,65: The term "positioned at an angle relative to the playing surface" is unclear and renders the claim indefinite and vague.

As to claims 56, 57, 62,: The term "longitudinal axis" and "generally aligned " is unclear and renders the claim indefinite and vague.

As to claim 59: The term "sized and configured to transmit a force" is unclear and renders the claim indefinite and vague.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luebkehan (3517470) in view of Hanson et al. Luebkehan discloses the elements of claim 1, however it fails to clearly disclose the use of a motion facilitating member. Hanson et al discloses the use of a motion facilitating member (24). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the motion facilitating member of Hanson et al with the apparatus of Luebkehan in order to more easily move the device.

As to claim 3: Hanson et al discloses a wheel (24). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the

motion facilitating member of Hanson et al with the apparatus of Luebkeman in order to more easily move the device.

As to claim 4: Luebkeman discloses an anchoring attachment configured to threadably engage an anchor (fig 1).

As to claim 5: Luebkeman discloses an anchoring attachment configured to be manually rotated between the anchored and free configuration (fig 1-5).

As to claim 6: Luebkeman discloses a hole (fig 1-5).

As to claim 7: Luebkeman discloses an anchoring attachment configured to engage a retaining member (fig 1).

As to claims 8 and 9: No criticality is seen in the linkage means used to secure the base to the anchoring unit. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent attachment means based on knowledge, manufacturing methods and design choice in order to increase the marketability of the product.

As to claims 10-12: : No criticality is seen in the support strut. Various means of support are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent attachment means based on knowledge, manufacturing methods and design choice in order to increase the marketability of the product.

Claims 46-52, 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Geise. Morrison discloses the elements of claim 46, however it

fails to clearly disclose the use of a basketball goal. Geise discloses the use of a basketball goal (62,64). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the goal of Geise with the apparatus of Morrison in order for the players to use the goal for a more popular game.

As to claims 47 - 52: Morrison discloses a support strut connected to the base (fig 1).

As to claims 54 : Morrison discloses a bracket (fig 1).

As to claim 55: No criticality is seen in the use of a bracket with rounded edges and a slot. These are common features in brackets and are not novel. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent brackets based on manufacturing methods and design choices for the device.

As to claims 56-57: Morrison discloses a longitudinal axis extending along the length of the support and aligned with the fastener (fig 1).

As to claim 58: Morrison discloses a bracket (fig 1).

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art for claim 46 and further in view of Popp et al. The cited art fails to clearly disclose the use of a resilient member. Popp et al discloses the use of a resilient member (20). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener of Popp et al with the apparatus order to increase player satisfaction by providing a more secure ground support.

Claims 59, 60, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Geise. Morrison discloses the elements of claim 59, however it fails to clearly disclose the use of a basketball goal. Geise discloses the use of a basketball goal (62,64). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the goal of Geise with the apparatus of Morrison in order for the players to use the goal for a more popular game.

As to claim 60 : Morrison discloses a first and second anchoring attachment (fig 1).

As to claim 62 : Morrison discloses a first and second anchoring attachment that would have longitudinal axis aligned with the support strut (fig 1).

Claim 61, 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art for claim 59 and further in view of Popp et al. The cited art fails to clearly disclose the use of a threaded fastener. Popp et al discloses the use of a threaded fastener (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener of Popp et al with the apparatus order to increase player satisfaction by providing a more secure ground support.

As to claim 63 : Popp discloses a bracket (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener of Popp et al with the apparatus order to increase player satisfaction by providing a more secure ground support.

As to claim 64 : See claim 63 rejection.

In addition,

Claims 1-12, 46- , 3, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matherne et al in view of Luebkehan and Davis et al. Matherne et al discloses the elements of claim 1, however it fails to disclose the use of an anchoring attachment. Davis et al discloses it is old to secure a goal to the playing surface (3:44-49). Luebkehan discloses an anchoring attachment (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal of Matherne et al in order to make the device more secure during play.

As to claim 2: Matherne et al discloses a hollow shape formed of a polymeric material (fig 4).

As to claim 3: Matherne et al discloses a wheel (fig 1).

As to claim 4: Luebkehan discloses an anchoring attachment configured to threadably engage an anchor (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal in order to make the device more secure during play.

As to claim 5: Luebkehan discloses an anchoring attachment configured to be manually rotated between the anchored and free configuration (fig 1-5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal in order to make the device more secure during play.

As to claim 6: Luebkehan discloses a hole (fig 1-5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal in order to make the device more secure during play.

As to claim 7: Luebkehan discloses an anchoring attachment configured to engage a retaining member (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal in order to make the device more secure during play.

As to claims 8 and 9: No criticality is seen in the linkage means used to secure the base to the anchoring unit. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent attachment means and shapes based on knowledge, manufacturing methods and design choice in order to increase the marketability of the product.

As to claim 10: Matherne et al discloses a support strut (fig 1).

As to claim 11-12: Matherne et al discloses a bracket (fig 5). No criticality is seen in the placement of the anchoring attachment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected an appropriate position for the anchoring attachment based on well known design molding choices in order to lower manufacturing costs.

As to claim 46 : See base claim rejection.

As to claims 47-50: No criticality is seen in the placement of the anchoring attachment and strut. It would have been obvious to one of ordinary skill in the art at the

time of the invention to have selected an appropriate position for the anchoring attachment based on well known design molding choices in order to lower manufacturing costs and increase the structural integrity of the device.

As to claim 51: Luebkehan discloses an opening (fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal in order to make the device more secure during play.

As to claim 52: Luebkehan discloses an anchoring attachment (fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal in order to make the device more secure during play.

As to claim 53: Luebkehan discloses a resilient member (23). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the anchoring attachment of Luebkehan with the goal in order to make the device more secure during play.

As to claims 54 and 55: Matherne et al discloses a bracket (fig 5). Official notice is taken that the use of slots and rounded corners is well known in the art. No criticality is seen in the placement of the anchoring attachment. It would have been

obvious to one of ordinary skill in the art at the time of the invention to have selected an appropriate position for the anchoring attachment based on well known design molding choices in order to lower manufacturing costs. No criticality is seen in the use of bracket with rounded edges and a slot. These are common features in brackets and are not novel. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent brackets based on manufacturing methods and design choices for the device.

As to claims 56-57: Matherne et al would have a longitudinal axis extending along the length of the support and aligned with the fastener (fig 1).

As to claim 58: Matherne et al discloses a bracket (fig 3).

As to claim 59, : See base claim rejection.

Claims 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art for claim 59 and further in view of Popp et al. The cited art fails to clearly disclose the use of a threaded fastener. Popp et al discloses the use of a threaded fastener (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener of Popp et al with the apparatus order to increase player satisfaction by providing a more secure ground support.

As to claim 63 : Popp discloses a bracket (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the fastener of Popp et al with the apparatus order to increase player satisfaction by providing a more secure ground support.

As to claim 64 : See claim 63 rejection.

As to claim 65: Matherne et al discloses two support struts (fig 1).

As to claim 66: No criticality is seen in the number of support struts. Various means of support are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected an appropriate number and type of several equivalent attachment means based on knowledge, manufacturing methods and design choice in order to increase the marketability of the product.

Note: It would be useful to the examiner if the response to this office action included an explanation of what the applicant believes the novelty and non-obviousness of the instant invention is. It would appear to the examiner that the applicant has merely taken a traditional well known portable basketball goal with a plastic base and used a well known means of attachment to secure the goal to the playing surface. The legal language and lexicography in the dependent claims makes it difficult to clearly understand what the perceived patentable feature is.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3711

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

4526367*3517470*5102128*5902197*5568711*4
611812*5259612*

Michael Chambers
Examiner
Art Unit 3711

August 14, 2003



Paul T. Sowell
Supervisory Patent Examiner
Group 3700